UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,820	10/01/2003	Aristotle Nicholas Balogh	026970-010051US	8779

20350   7590   07/10/2008
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
RAYYAN, SUSAN F

ART UNIT	PAPER NUMBER
2167	

MAIL DATE	DELIVERY MODE
07/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _19 February 2008_.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,4-12,15-18 and 21-32_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,4-12,15-18 and 21-32_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 2-3,13-14,19-20 are canceled.

2.   Claims 1, 4-12, 15-18, 20-32 are pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

Claims 1,4-6, 11, 15,18,21-32 are rejected under 35 U.S.C. 103(a) as

being unpatentable over US Patent 6,636,854 issued to Rabindranath Dutta

et al ("Dutta") and US Patent 6,714,539 issued to Daniel Charles Sbisa

("Sbisa").

As per claim 1 Dutta teaches:

extracting a plurality of queries from a plurality of query messages received from

a plurality of users over the network (column 7, lines 40-48, as user enters

search string and figure 6A ref.no. 602: server receives search request);

creating a first request message including the plurality of queries, a first

sequence number corresponding to one or more of the queries, and state

information describing each query_equal to the current sequence number and a

first message count equal to the number of queries at (column 8, lines 59-62, as

generating a query message containing the query and message header and "

figure 6A ref.no. 602: server receives search request and forwards to search

engine);

sending the first request message to a search engine (column 8, lines 40-48, as

search request sent to search engine and figure 6A ref.no. 602: server receives

search request and forwards to search engine);

receiving a response message from the search engine (column 7, 50-52, as

results sent to client), the response message including a plurality of replies, a

second sequence number corresponding to one or more of the replies, and state

information describing each query a second message count, a third sequence

number and a third message count …wherein each reply is generated in

response to a query (column 8, lines 59-62, as generating a query message

containing the query and message header).

Dutta does not explicitly teach creating a plurality of reply messages from the

plurality of replies and sending the plurality of reply messages to the plurality

of users over the network. Sbisa does teach creating a plurality of reply

messages from the plurality of replies and sending the plurality of reply

messages to the plurality of users over the network (column 2, lines 25-30 ,

as receiving query messages from a plurality of devices and processing the

queries and return responses to the devices) to receive and process multiple

queries. It would have been obvious to a person of ordinary skill in the art at

the time of the invention to modify Dutta with creating a plurality of reply

messages from the plurality of replies and sending the plurality of reply

messages to the plurality of users over the network to receive and process

multiple queries as described by Sbisa (column 2, lines 18-22

As per claim 4 same as claim arguments above and Sbisa teaches:

determining message latency associated with the first sequence number(column

4, lines 40-41, as timestamp).

As per claim 5 same as claim arguments above and Sbisa teaches:

 wherein said determining a message latency includes: updating a request

timestamp based on the request message , updating a response timestamp

based on the response message , comparing the request timestamp and the

response timestamp (column 7, lines 40-41, timestamp).

As per claim 6 same as claim arguments above and Sbisa teaches:

receiving an additional response message from the search engine, the additional

response message including an additional plurality of replies, and updating the

response timestamp based on the additional response message(column 7, lines

40-41, timestamp).

. **As per claim 28** same as claim arguments above and Sbisa teaches:

 wherein the response message includes replies generated in response to the

first sequence number and a third sequence number, the third sequence number

identifying a subsequent request message created after the first request

message (column 7, lines 40-42, as message header).

As per claim 29 same as claim arguments above and Sbisa teaches:

wherein sending the plurality of reply messages to the plurality of users

comprises identifying a user associated with each query from which each reply

message was generated using the state information(column 7, lines 40-42, as

message header, originator).

As per claim 30 same as claim arguments above and Sbisa teaches:

wherein the first sequence number uniquely identifies one or more of the queries

and the second sequence number uniquely identifies one or more of the

replies(column 7, lines 40-41, timestamp).

As per claim 31 same as claim arguments above and Sbisa teaches:

wherein the first sequence number corresponds to a first query, wherein the

second sequence number corresponds to a first reply that is in response to the

first query, and wherein the first sequence number equals the second sequence

number(column 7, lines 40-41, timestamp).

As per claim 32 same as claim arguments above and Sbisa teaches:

wherein the first request message includes a respective query sequence number

corresponding to each query, and wherein the response message includes a

respective reply sequence number corresponding to each reply(column 7, lines

40-41, timestamp).

Claims 11,15,18,21-27 are rejected based on the same rationale as claims 1, 4-

10.

> Claims 7-10, 16-17 are rejected under 35 U.S.C. 103(a) as being
> unpatentable over US Patent 6,636,854 issued to Rabindranath Dutta et al
> ("Dutta") and US Patent 6,714,539 issued to Daniel Charles Sbisa ("Sbisa") in
> view of US Patent Publication Number 2003/0138091 issued to   William
> Meek et al ("Meek") and further in view of US Patent Application Publication
> Number 2002/0040414 issued to Kaitaro Uehara ("Uehara")

As per claim 7 same as claim arguments above and Dutta and Sbisa do not

explicitly teach updating a query count based on the request message, updating

a reply count based on the response message and comparing the query count

and the reply count. Uehara does teach reply count (paragraph 120, reply count)

.It would have bee obvious to a person of ordinary skill in the art at the time the

invention was made to modify Dutta and Sbisa with a reply count to improve

monitoring. Dutta and Sbisa in view of. Uehara do not explicitly teach query

count, Meek does teach query count (paragraph 94, query count). It would have

been obvious to one of ordinary skill in the art at the time the invention was made

to modify Dutta and Sbisa in view of Uehara with a query count to track the

queries.

As per claim 8 same as claim arguments above and Uehara teaches:

 receiving an additional response message from the search engine, the additional

response message including an additional plurality of replies, and updating the

reply count based on the additional response message(paragraph 120, reply

count).

As per claim 9 same as claim arguments above and Uehara teaches:

updating a response count based on the response message and comparing the

response count to a predetermined response count (paragraph 120, reply count)

As per claim 10 same as claim arguments above and Uehara teaches:

receiving an additional response message from the search engine, the additional

response message including an additional plurality of replies,

and updating a response count based on the additional response message

(paragraph 120, reply count)

.

Claims 16-17 are rejected based on the same rationale as claims 7-10 above.

Response to Arguments

4.   Applicant's arguments filed February 19, 2008 have been fully considered

but they are not persuasive.

Applicant argues prior art of record does not teach "extracting a plurality of

queries from a plurality of query messages received from a plurality of users" ,

"creating a first request message including the plurality of queries", "a first

sequence number corresponding to one or more of the queries" and "sending the

first request message to a search engine". However Examiner finds Dutta

teaches "extracting a plurality of queries from a plurality of query messages

received from a plurality of users" at (column 7, lines 40-48, as user enters

search string and figure 6A ref.no. 602: server receives search request),

"creating a first request message including the plurality of queries" at (column 8,

lines 59-62, as generating a query message containing the query and message

header and " figure 6A ref.no. 602: server receives search request and forwards

to search engine) and "sending the first request message to a search engine" at

(column 8, lines 40-48, as search request sent to search engine and figure 6A

ref.no. 602: server receives search request and forwards to search engine).

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Contact Information

6.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Susan F. Rayyan whose telephone number is

571-272-1675. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John R. Cottingham/
Supervisory Patent Examiner, Art
Unit 2167

Susan Rayyan
July 7, 2008